

MEMORANDUM OF AGREEMENT BETWEEN
THE STATE OF IDAHO
AND
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

I. GENERAL

This Memorandum of Agreement (hereinafter "Agreement") establishes policies, responsibilities, and procedures pursuant to 40 CFR 271.8 for the State of Idaho Hazardous Waste program (hereinafter "State Program") authorized under Section 3006 of the Resource Conservation and Recovery Act (hereinafter "RCRA or "the Act") of 1976 (42 USC 6901 et seq.), as amended (Public Laws 94-580, 96-482, 98-616), and the United States Environmental Protection Agency (hereinafter EPA) Regional Office for Region 10. This Agreement further sets forth the manner in which the State and EPA will coordinate the State's administration and enforcement of the State program and, pending State authorization, EPA's administration of the non-authorized provisions of the Hazardous and Soil Waste Amendments of 1984 (HSWA). For purposes of this Agreement, references to "RCRA" include HSWA.

This Agreement is entered into by the Administrator of the Division of Environmental Quality, Idaho Department of Health and Welfare (hereinafter "DEQ Administrator" or "the State") and the Regional Administrator, EPA Region 10 (hereinafter "Regional Administrator" or "EPA").

Nothing in this Agreement shall be constructed to restrict in any way EPA's authority to fulfill its oversight and enforcement responsibilities under RCRA. Nothing in this Agreement shall be constructed to contravene any provision of 40 CFR Part 271. This Agreement does not restrict EPA's oversight authority for State program activities that are part of the federal program, does not establish privity between EPA and the State, and does not restrict EPA's independent enforcement authority.

The parties will review the agreement jointly at least once a year (and other times as appropriate) during preparation for the annual State Grant workplan or Performance Partnership Grant (hereinafter "Grant"), in connection with grant funding under section 3011 of RCRA.

This Agreement may be modified upon the initiative of either party in order to ensure consistency with State program modifications made or for any other purpose mutually agreed upon. Any revisions or modifications to this Agreement must be in writing and must be signed by the State and the Regional Administrator. This Agreement will remain in effect until such

time as State program authorization is withdrawn by or is voluntarily transferred to EPA according to the criteria and procedures established in 40 CFR 271.22 and 40 CFR 271.23.

This Agreement is being revised because the State is submitting a revised authorization application. This Agreement shall be signed by the State and the Regional Administrator and shall become effective after being signed by both parties. This Agreement shall replace the Agreement dated September 17, 1996, effective October 6, 1998.

II. POLICY STATEMENT

Each of the parties in this Agreement is responsible for ensuring that its obligations under RCRA are met. Upon granting of final authorization by EPA, the State assumes primary responsibility for implementing the authorized provisions of the RCRA hazardous waste program within its geographic boundaries, except in Indian country. The State will conduct its hazardous waste program in accordance with EPA program policies and guidance.¹ While EPA retains responsibility for the direct implementation of those provisions of HSWA for which the State is not authorized, it is the intention of EPA and the State to coordinate the implementation of such provisions to the greatest degree possible. The State and Regional Administrator agree to maintain a high level of cooperation and coordination between their respective staffs in a partnership to assure successful and effective administration of the State program.

EPA will oversee implementation of the authorized State program in order to ensure full execution of the requirements of RCRA, to promote national consistency in the hazardous waste program, to allow EPA to report to the President and Congress on the achievements of the hazardous waste program, and to encourage the State and EPA to agree on desirable technical support and targets for joint efforts to prevent and mitigate environmental problems associated with the improper management of hazardous wastes. Oversight will be accomplished by EPA through written reporting requirements, permit overview, compliance and enforcement overview, and annual review of the State's programs.

¹ These policies and guidance include, at a minimum, the OSWER Consolidated Guidance; the Office of Enforcement and Compliance Assurance MOA guidance; RCRA Civil Penalty Policy dated October 26, 1990; National Criteria for a Quality Hazardous Waste Program ; revised Hazardous Civil Enforcement Response Policy (April 15, 1996); and the EPA Policy on Performance Based Assistance (May 31, 1985); and May 1, 1996 Advanced Notice of Proposed Rulemaking for the Corrective Action Program, Setting Customer Service Standards (E.O. 12862, September 11, 1993); Improving Customer Service (Fred Hanson, April 8, 1998); Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations (E.O. 12892, February 11, 1994); EPA OSWER Environmental Justice Action Agenda (EPA 540/R-95/023, 1995).

III. STATE PROGRAM REVIEW

The Regional Administrator will assess the State administration and enforcement of the hazardous waste program on a continuing basis for equivalence and consistency with RCRA, this Agreement, and all applicable Federal requirements and policies, and for adequacy of enforcement. This assessment will be accomplished by EPA review of information submitted by the State in accordance with this Agreement and the State Grant work program, permit overview, compliance and enforcement overview, and annual review of State program activities. The Regional Administrator may also consider, as part of this regular assessment, written comments about the State's program administration and enforcement that are received from regulated persons, the public, and Federal, State and local agencies. Copies of any such comments received by the Regional Administrator will be provided to the State.

Except for those documents protected by attorney client privilege pursuant to Idaho Rule of Evidence 502, Idaho Code § 9-203, or otherwise subject to protection as attorney work product pursuant to Idaho Rules of Civil Procedure 26(b)(3), the State shall allow EPA to routinely review State records, reports, and files relevant to the administration and enforcement of the approved program. EPA agrees that all requests for information will be coordinated in advance when possible. Coordination will not subject EPA to State FOIA requirements. Program review meetings between the State and the EPA will be scheduled at reasonable intervals to review specific operating procedures and schedules, to resolve problems and to discuss mutual program concerns. These meetings will be scheduled at least fifteen days in advance unless mutually agreed to differently. A tentative agenda for the meeting will be prepared by EPA.

The State and EPA agree to develop, on an annual basis as part of the State grant work program, criteria for priority activities, including activities regarding handlers of hazardous waste. These criteria will be based on guidance issued by EPA in the annual Agency Operating Year Guidance, other guidance documents as may be appropriate, and State specific concerns, and will serve to identify those activities which should receive the highest priority during the grant period.

IV. INFORMATION SHARING

A. General

This Section covers information sharing on miscellaneous elements of the RCRA program, including notification, RCRIS data, etc. Specific information sharing requirements for the other major program elements are covered in their respective Sections: V. Permit Issuance, VI. Permit Administration, and VII. Enforcement. Detailed tables describing the flow of documents between the State and EPA for Sections V., VI., and VII. of the MOA are included at the end of this document. As the respective information needs of the State and EPA evolve, changes to this section of the Agreement or the tables may be appropriate. During the annual

review of this Agreement the State and the Regional Administrator will carefully examine the information sharing for needed revision.

Information related to Sections V. and VI., Permitting, and Section VII., Enforcement, shall be sent by the State to: Jeff Hunt, EPA Region 10, 1200 Sixth Ave., WCM-122, Seattle, WA 98101. EPA shall send permit and enforcement related information to: Brian Monson, Idaho Department of Health and Welfare, Division of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255.

1. EPA will keep the State informed on the content and meaning of Federal statutes, regulations, guidelines, standards, policy decisions, directives, and any other factors that affect the State program. EPA will also provide general technical guidance to the State. EPA will share with the State any reports developed by EPA from the data submitted through State reporting requirements.
2. EPA will make available to the State other relevant information as requested which the State needs to implement its approved program. Information provided to the State will be subject to the terms of 40 CFR Part 2.
3. The State agrees to inform the Regional Administrator of any proposed program changes which would affect the State's ability to implement the authorized program with as much advance notice as possible. Program changes of concern include modification of the State's legal authorities (i.e., statutes, regulations and judicial or legislative actions affecting those authorities), modifications of Memorandum of Agreement or Understanding with other agencies, and modifications of resource levels (i.e., available or budgeted personnel and funds). Program changes also include legal changes that would affect compliance monitoring and enforcement, such as privileges and immunities laws. The State recognizes that program revisions must be made in accordance with the provisions of 40 CFR 271.21, and that until approved by EPA, revisions are not authorized as RCRA Subtitle C requirements, however revisions may be enforced under State laws and authority but not in lieu of federal RCRA until such time, if any, as EPA has approved and authorized such revisions. EPA agrees to support the State with timely review of proposed State Legislation that might have a significant potential to affect the authorized hazardous waste program.
4. Except for documents and information protected by attorney client privilege pursuant to Idaho Rule of Evidence 502 and Idaho Code § 9-203 or otherwise subject to attorney work product pursuant to Idaho Rules of Civil Procedure 26 (b)(3) , the State agrees to provide any pertinent information requested by the Regional Administrator or his or her designee, within a mutually agreed upon time frame, as necessary for EPA to carry out its oversight responsibilities.
5. The State agrees to submit the following reports and documents to the Regional Administrator or his or her designee within the specified time periods: a) Midyear and

End-of-Year reports on the dates set in the Grant and b) Additional reports and documents as specified by the Grant.

6. The State agrees to provide EPA with a copy of any decisions regarding requests made by hazardous waste handlers to change their classifications (e.g., requests to be deleted as generators but to retain facility status) and facility requests to make on-site changes prior to permit issuance (e.g., requests to handle additional wastes not identified on the facility's original notification and RCRA Part A Permit Application.)
7. EPA agrees to adhere to the schedules in the Grant and the schedules specified by the Grant, including the Document Flow Tables.

B. Site Visits

EPA is responsible for maintaining reliable national data on hazardous waste management. This data is used to report to the President and Congress on the achievements of the hazardous waste program and to support EPA's regulatory development efforts. Whenever EPA determines that it needs to obtain certain information, EPA will first seek to gain this information from the States. The State of Idaho agrees to supply the Regional Administrator with this information if readily available and as resources allow in accordance with section IV (A)(4) hereof. If the State is unable to provide the information or if it is necessary to supplement the State information, EPA may conduct a special survey or perform information collection site visits after notifying the State (normally with at least seven days advance notice) and inviting the State to participate in the site visit. EPA will share with the State any reports developed by EPA as a result of such information collection.

C. Emergency Situations

Upon receipt of any information that the handling, storage, treatment, transportation, or disposal of hazardous waste is endangering human health or the environment, the party in receipt of such information shall immediately notify by telephone the Idaho Emergency Response Communication center at 1-800-632-8000.

D. Confidentiality

1. Subject to the provisions of section IV (A) (4) herein regarding attorney client privilege and attorney work product protection, any information obtained or used in the administration of the State program shall be available to EPA. If the information has been submitted to the State under claim of confidentiality, the State must submit said information to EPA in a manner reasonably anticipated to place EPA on notice of such claim of confidentiality. Any information obtained from a State and subject to a claim of confidentiality will be handled in accordance with the regulations in 40 CFR Part 2, Public Information.

2. EPA agrees to furnish to the State information in its files which is not submitted under a claim of confidentiality and which the State needs to implement its program. EPA will release confidential information only to States with confidentiality provisions equivalent to 40 CFR Part 2. Subject to the conditions in 40 CFR Part 2, EPA will furnish to the State information submitted to EPA under a claim of confidentiality which the State needs to implement its program. All information EPA agrees to transfer to the State will be transferred in accordance with the requirements of 40 CFR Part 2. EPA will notify affected facilities when such information is sent to the State. The State will handle such information in accordance with the Idaho Public Records Act, Idaho Code § 9-337 et seq.

E. Delisting

The State shall send a copy of any delisting petition, and all subsequent revisions, to EPA within 15 days of receipt. Please consult the Enforcement and Compliance document flow table, attached to this agreement that contains additional information on delisting documents the State will share with EPA.

F. Notification

EPA and the State have jointly decided that the State will assign all EPA I.D. numbers and enter all notification data into RCRIS. If the applicant sends a notification form (8700-12 or equivalent) directly to EPA, EPA will forward the form to the State for the assignment of an I.D. number within 30 days of receipt. If the State receives a notification form from EPA or from the applicant, the State will assign an I.D. number to the applicant and inform the applicant of its number.

G. Variances and Waivers

The State agrees to provide EPA with a copy of each proposed variance and waiver at the time it is received. Within 45 days of receipt, EPA can review and comment on any proposed variance or waiver. The State agrees to halt any proposed action, within the 45 day comment period, if EPA determines that the proposed variance or waiver is inconsistent with the State's authorized program. This 45 day comment period can be shortened on a case by case basis by mutual consent. The State will transmit a copy of any public notices, variances, or waiver approvals to EPA within ten (10) days of issuance.

H. RCRA Data Management

1. The State agrees to use, maintain, and enter data into, the national RCRA data management systems (currently RCRIS).
2. The State and EPA share one RCRIS database, effective October 1, 1998. The State and EPA Region 10 are each responsible for the correctness of the data entered by their agency.

3. The State will enter all required RCRA Core data monthly into RCRIS and may submit or enter data as agreed between EPA and the State.
4. The State will collect Biennial Reporting data and provide Biennial Reporting System (BRS) data that has passed all basic BRS edits to EPA for loading into the national BRS according to the schedule promulgated by EPA Headquarters, and the schedule in the Grant.
5. EPA will be responsible for maintenance and clean-up of all EPA data entered in the RCRIS corrective action module prior to the State's authorization for HSWA corrective action.
6. EPA will inform the State promptly when changes are made to RCRIS that might affect the State's implementation of RCRIS. EPA will assist the State in RCRIS consulting and training as resources allow.
7. As resources allow, EPA will assist the State in developing RCRIS/RCRA Info reports.
8. Neither the State nor EPA will unilaterally change its RCRIS implementer system in any way without advance consultation with, and agreement of, the other party.
9. Both EPA and the State have the right, as implementers of RCRIS, to choose and to change their RCRIS hardware platforms to optimize system efficiency, but will not do so in such a way as to negatively affect the RCRIS data base, access to the RCRIS data base reports, or the potential for updating RCRIS with new data.

V. PERMIT ISSUANCE

A. EPA Permitting

Upon authorization of the State program, EPA will suspend issuance of Federal permits for hazardous waste treatment, storage, and disposal facilities for which the State is receiving authorization. If EPA promulgates standards for additional regulations mandated by HSWA, that are not covered by the State's authorized program, EPA will issue and enforce RCRA permits in the State for these new regulations until the State receives final authorization for equivalent and consistent State standards. If EPA promulgates new standards requiring a permit modification, then EPA may, pursuant to 40 CFR 270.42(b)(6)(vii), extend the time period for final approval or denial of a modification request until such time that the State receives authorization for the new standards. At the time the State program is approved in the new areas, EPA will suspend issuance of Federal permits in the State. The State and EPA have agreed to a joint permitting process (see section V.D. of this Agreement) for the joint processing and enforcement of permits for those provisions of RCRA for which the State does not have authorization.

EPA will transfer any pending permit applications, completed permits or pertinent file information to the State within forty-five days of the approval of the State program in conformance with the conditions of this Agreement.

B. EPA Overview of State Permits

While EPA may comment on any permit application or draft permit, EPA's overview function will focus primarily on those facilities identified by the State and EPA in the State's RCRIS Permitting Six Quarter Plan, annual State Grant Work Program and the State's Program Description.

EPA may comment in writing on any draft permit or proposed permit modification, within forty five days of its receipt, whether or not EPA commented on the permit application. Where EPA indicates in a comment that issuance, modification, reissuance, termination or denial of the permit would be inconsistent with the approved State program, EPA shall include in the comment:

- a. A statement of the reasons for comment (including citation to the section of the State or federal law or regulations that supports the comment), and
- b. The actions that should be taken by the State to address the comment (including the conditions which the permit would include if it were issued by EPA).

The State and EPA will usually reach concurrence on permit conditions prior to issuance of the draft permit or approval of proposed permit modifications. The DEQ Administrator and EPA Regional Administrator agree to meet or confer, within the permit review period, whenever necessary to resolve a disagreement between their staffs on the terms of any State-issued permit. EPA shall withdraw such comments if satisfied that the State has met its concerns. The State agrees to consider all comments EPA makes on permit applications and draft permits. The State will satisfy or refute EPA's concerns on a particular permit application, proposed permit modification, or draft permit in writing before issuing the permit or making the modification.

Under section 3008(a)(3) of RCRA, EPA may terminate a State-issued permit in accordance with the procedures of 40 CFR Part 124, Subpart E, or bring an enforcement action in accordance with the procedures of 40 CFR Part 22 in the case of a violation of a State program requirement. In exercising these authorities, EPA will observe the conditions established in 40 CFR 271.19(e).

C. State Permitting

The State is responsible for expeditiously drafting, circulating for public review and comment, issuing, modifying, reissuing and terminating RCRA permits for those hazardous waste treatment, storage and disposal facilities subject to the authorized provisions of the State's

program and shall do so in a manner consistent with RCRA as amended by HSWA, this Agreement, all applicable Federal and State requirements, and the State's Program Description. In accordance with Idaho Code §39-4409(2), upon authorization interim status or final permits issued by EPA prior to State authorization shall be adopted as State interim status final permits until IDHW issues a new State permit. The State agrees to issue, modify and reissue all permits subject to the authorized portions of the State's program in accordance with the applicable provisions of IDAPA §§ 16.01.05.013 the state equivalent to 40 CFR Part 124, the Idaho Administrative Procedures Act, Idaho Code § 67-5440-79, Idaho Department of Health and Welfare Rules Governing Contested Case Proceedings and Declaratory Rulings, IDAPA §§16.05.03 et seq. and to include as permit conditions all applicable provisions of IDAPA §§ 16.01.05. et seq. This Agreement also applies to permits issued after final authorization but for which the processing may have begun before final authorization.

The State agrees that any compliance schedule contained in any permit issued will require compliance with applicable standards within a specified time period.

D. Joint Permitting Process

Pursuant to section 3006(g)(1), and in accordance with RCRA, as amended , EPA has the authority to issue or deny permits or those portions of permits to facilities in Idaho for the requirements and prohibitions in or stemming from HSWA, until the State's program is amended to reflect those requirements and prohibitions and authorization is received for the portion or portions of the program.

EPA and Idaho hereby establish this joint permitting process for the issuance of RCRA permits in Idaho. This joint permitting process is established in accordance with section 3006(c)(3) of RCRA. A determination on which sites may require joint permitting will be made by the State and EPA, noted in the State Grant Workplan.

Upon authorization of the State for any of the provisions of RCRA, the specifics of the Joint Permitting Agreement as set in the annual State grant work program shall be amended to reflect the authorization. Amendment of this Memorandum of Agreement or the execution of a separate Memorandum of Agreement may be required for authorization of any of the provisions of HSWA.

VI. PERMIT ADMINISTRATION

A. EPA

EPA will administer the enforcement, modification, revocation, reissuance, and termination of those portions of joint State/EPA permits for which the State does not yet have authority, until such time as the State adopts the provisions as a matter of State law and is authorized for the provisions by EPA and in accordance with section VI.B of this agreement.

B. State

The State agrees to review all hazardous waste permits which were issued under State law prior to the effective date of this Agreement in accordance with 40 CFR 271.13(d), and to modify, or revoke and reissue, such permits as necessary to require compliance with the amended State Program. The State shall notify EPA of any permits not equivalent to federal permit requirements, including any permits that have been issued but are pending administrative or judicial appeal. Except for these non-equivalent permits, once EPA has determined that the State has fulfilled the requirements of 40 CFR 271.13(d), EPA will terminate the applicable Federal permit, or Federal portion of the permit, pursuant to the procedures in 40 CFR 124.5(d), notify the State that the permit is terminated, and no longer administer those permits portions of permits for which the State is authorized.

Where the State permit is not equivalent to federal permit requirements, the State may modify, or revoke and reissue, its permit as necessary to require compliance with its authorized program in a manner consistent with RCRA as amended by HSWA. If the State does not modify, or revoke and reissue, a permit equivalent to the federal permit, EPA will administer and enforce its permit until it expires or is terminated.

Upon the effective date of an equivalent State permit, EPA will terminate the federal permit pursuant to 40 CFR 271.8(b)(6) and 124.5(d). EPA will notify the permittee by certified mail of its intent to terminate the federal permit, and give the permittee 30 days in which to agree or object to termination of the permit.

The State agrees to resolve all State permit appeals in a manner consistent with its authorized RCRA program.

VII. COMPLIANCE MONITORING AND ENFORCEMENT

A. EPA

Nothing in this Agreement shall restrict EPA's right to inspect any hazardous waste generator, transporter or facility or bring enforcement action against any person believed to be in violation of the State or Federal hazardous waste program or believed to have a release of hazardous waste or constituent. Before conducting a civil compliance/enforcement inspection of a generator, transporter or facility, the Regional Administrator will normally give the State at least seven days notice of the intent to inspect in accordance with 40 CFR 271.8(b)(3)(i). In case of an imminent hazard to human health or the environment, the Regional Administrator may shorten or waive the notice period. EPA agrees to make available to the State copies of any reports and data resulting from compliance inspections within a reasonable time from completion of the inspections.

Under current Region 10 policy, if the State makes notice to EPA that an inspection will be made, with an inspection report provided, no EPA civil inspection will be made, unless the

Regional Administrator deems the State actions to be inadequate or the Regional Administrator has reason to believe there is an imminent and substantial endangerment to human health or the environment; however, notwithstanding the above policy and as required by 40 CFR 271.8(b)(5) no limitations on EPA compliance inspections of generators, transporters, or non-major HWM facilities under 40 CFR 271.8(b)(4) shall restrict EPA's right to inspect any generator, transporter, or HWM facility which it has cause to believe is not in compliance with RCRA, and as required by 40 CFR 271.8(b) this policy shall not restrict EPA's authority to inspect major HWM facilities. Before conducting a civil inspection, EPA will allow the State a reasonable opportunity to conduct a compliance evaluation inspection.

The frequency of EPA oversight and training inspections will be specified in the annual State grant work program. EPA will negotiate on an annual basis with the State the number or percentage of the State's compliance inspections on which EPA will accompany the State.

EPA may take enforcement action against any person determined to be in violation of RCRA in accordance with section 3008. EPA will take civil enforcement action upon determining that the State has not taken timely and appropriate enforcement action or upon request by the State. Prior to issuing a compliance order under section 3008(a) EPA will give notice to the State pursuant to 3008(a)(2). EPA also retains its rights to issue orders and bring actions under sections 3008(h), 3013 and 7003 of RCRA and any other applicable Federal statute.

After notice to the State, EPA may take action under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition of that permit. In addition, EPA may take action under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition that the Regional Administrator, in commenting on that permit application or draft permit, stated was necessary to implement approved State program requirements, whether or not that condition was included in the final permit.

B. State

The State agrees to carry out a timely and effective program for monitoring compliance by generators, transporters, and TSD facilities (see 40 CFR 271.15). As part of this program, the State will conduct inspections to assess compliance with generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements. Compliance monitoring activities and priorities will be specified in the Office of Enforcement and Compliance Assurance's bi-annual MOA guidance and the annual State grant work program and shall be consistent with all applicable Federal requirements and with the State's Program Description. State specific activities and priorities for compliance monitoring, TSD and generator inspections will be negotiated in the annual grant workplan.

Individuals in the State program may be designated by the Regional Administrator as EPA representatives under section 3007 of RCRA, so that they can inspect facilities for violations of terms and conditions of Federal permits. Designations with respect to section 3007 of RCRA will be negotiated in the annual grant workplan or at other times upon mutual agreement of both parties.

The State agrees to take timely and appropriate enforcement action as defined in the 1996 Hazardous Waste Enforcement Response Policy against all persons in violation of generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements, including violations detected by State or Federal compliance inspections. The State will maintain procedures for receiving and ensuring proper consideration of information about violations submitted by the public.

Subject to the provisions of section IV (A)(4) herein, the State agrees to provide EPA with copies of reports resulting from any compliance inspection and subsequent enforcement actions, when EPA requests such copies. The State agrees to retain all records for at least three years unless there is an enforcement action pending. In that case all records will be retained until three years from the date such action is resolved.

VIII. AVAILABILITY OF INFORMATION

A. General

Section 3006(f) of RCRA requires an authorized state to provide for the public availability of information obtained by the State regarding facilities and sites for treatment, storage and disposal of hazardous waste. Such information must be available to the public in substantially the same manner as, and to the same degree as, that available under federal law.

B. Requests for Information

1. After a determination that this information is available for disclosure under the Idaho Public Records Act, Idaho Code § 9-337 et seq., the State agrees to make certain materials routinely available without a formal information request. Examples of these materials are final opinions or orders in case adjudication, State regulations, statements of Agency policy, and administrative staff manuals affecting the public. In addition, records prepared for routine public distribution will also be made available. Examples of such records are press releases, copies of speeches, pamphlets, and educational materials.
2. The State Agency agrees to make reasonable efforts to assist a requestor in identifying records being sought, and to help the requestor formulate his or her request.
3. If a request for information is denied, the State agrees to provide the requestor the basis for the denial and to notify the requestor of any State judicial, administrative procedures,

or statutes of limitation in accordance with the Idaho Public Records Act, Idaho Code § 9-337, et seq.

4. The State agrees to make the fullest possible disclosure of records to the public, except where the record would qualify for any of the exemptions under the Idaho Public Records Act, Idaho Code § 9-337, et, seq. or under the Federal Freedom of Information Act, 5 U.S.C. 552(a)(2), if such exemption is recognized by the State.
5. A reduction or waiver of fees will be considered in connection with each request from a representative of the press or other communication medium, or from a public interest group. The State agrees to reduce or waive the fee if it determines that a reduction or waiver of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

C. Confidentiality of Business Information

Pursuant to the Idaho Public Records Act, Idaho Code § 9-335 et seq., the State agrees to determine whether a record constitutes a trade secret pursuant to Idaho Code § 9-340(2) within three (3) days, or, upon notice to the requestor not longer than ten (10) days from receipt of a request for such a record. Records which have not been claimed as trade secrets by a business at the first opportunity at or near the time of submission or collection and have not been subject of reasonable effort to maintain secrecy, and are not trade secrets within the meaning of Idaho Code § 9-340(2) will be released upon request without further notice to the business.

D. Oversight

1. The State agrees to keep a log of denials of requests for information (or a file containing copies of denial letters sent to requestors) which will be made available to EPA during the State review.
2. The State agrees to keep EPA fully informed of any proposed modifications to its basic statutory or regulatory authority, its forms, procedures, or priorities, as applied to section 3006(f).

STATE OF IDAHO
DEPT. OF HEALTH & WELFARE

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10

BY: /s/
DEQ ADMINISTRATOR
DATE 8/2/01

BY: /s/
REGIONAL ADMINISTRATOR
DATE 8/1/01

BASE PERMITTING DOCUMENT FLOW

BETWEEN EPA AND IDAHO DEQ

Item	Item Description	State Action	EPA Action
1	New and revised Part A application	Copy to EPA	Review and become familiar with document
2	a) LDF Operating Permit Part Bs, and subsequent revisions b) Combustion Operating Permit Part Bs, including trial burn plans, and subsequent revisions, and risk assessment protocols and risk assessments c) Subpart X Part B's, risk assessment protocols, and risk assessments	Copy to EPA within 30 days of receipt.	Review and become familiar with documents. Comment as appropriate at State request
3	Copies of warning letter and first Notice of Deficiency (NOD) for all TSDFs	Copy to EPA	Review for HSWA applicability, e.g. CC.
4	Copies of 2nd and subsequent NODs/Order for facilities in item 2.	Send draft 30 days prior to issuance if comments requested; final when issued.	Comments, if any, w/in 30 days of receipt
5	Completeness determinations for all TSDFs	Send 30 days prior to issuance	Monitor progress. Comments, if any, due within 30 days of receipt.
6	Draft permits and draft modifications for TSDFs in item 2, with fact sheets and public notices	Send to EPA 30 days before start of public comment period.	Comment to State w/in 30 days of receipt.
7	Draft permits and draft modifications for all other TSDFs, with fact sheets and public notices	Copy to EPA with monthly submittals	Review and comment to State/facility if cursory review indicates problems.

8	Final permits and final modifications for all TSDFs, and notices of permit denials	Copy to EPA	Review if EPA commented on draft.
9	Emergency Permits	Notify EPA by telephone ASAP, then send copy of permit	Monitor situation.
10	a) Clean Closure Plans for LDFs b) Closure Plans for Tank Units	Send to EPA with monthly submittals	Become familiar with plans, particularly clean closure submittals
11	Closure Plan NODs for item 10 facilities	Copy to EPA	Review and provide comments to State, if requested.
12	Closure Plan public notices, approval letters and closure acceptance letters for all TSDFs	Copy to EPA	Comment during public comment period.
13	Closure equivalency petitions and all associated documents	Copy to EPA	Review and provide comments to State during comment period.
14	Other documents at State's request	Per State schedule	Assist State to maximum extent possible.

**CORRECTIVE ACTION DOCUMENT FLOW
BETWEEN EPA AND IDAHO DEQ**

Item	Item Description	State Action	EPA Action
1	Visual Site Inspection notification letters sent to facilities	cc: EPA	Review letter or supply standard letter for state use. Accompany State, if appropriate.
2	Draft RFA Reports generated by State	Send to EPA in draft form when sent to facility for comment	Comments to State w/in 30 days of receipt, or tell State will not review.
3	Final RFA Reports sent to facilities	Copy to EPA	Review if EPA commented on draft.
4	Final EI evaluations and NCAPS worksheets	Send to EPA	Review if EPA commented on draft
5	Stabilization Evaluation Questionnaires (GPRA Universe)	Copy to EPA	Comments, if any to State w/in 30 days of receipt
6	All work plans and reports that address investigation and corrective action requirements for SWMUs at facilities with high NCAPS ranking.	Copy to EPA unless comments requested on expedited schedule.	Become familiar with documents.
7	Notices of Technical Inadequacy (NOTIs) and NOV's and Orders on Corrective Action Documents in item 7	cc: EPA	EPA review, if requested.
8	Remedy Selection Documents (Permit mods., Orders, SOBs, etc.)	Copy to EPA 30 days before issuance of draft. copy of final to EPA upon issuance.	Review and comment w/in 30 days of receipt of draft. Review final for conformity to EPA comments.

**ENFORCEMENT AND COMPLIANCE DOCUMENT FLOW
BETWEEN EPA AND IDAHO DEQ (Items in Italics show varying requirements
between States)**

Item	Item Description	State Action	EPA Action
1	List of all facilities / TSDFs / significant generators that State will inspect each quarter/year	Send list to EPA prior to start of quarter / year	Review list and notify State which facilities EPA will inspect.
2A ²	State draft inspection reports for joint EPA/State inspections prior to finalization	Send to EPA for review	Comment to State w/in 15 days of receipt.
2B	EPA draft report for joint EPA/State inspections; EPA final inspection report for independent inspections	Review draft EPA joint inspection report and provide comments to EPA	Final reports to be sent to facility with cc to State w/in 45 days after inspect.
3	For all inspections / inspections of Significant Non-Compliers (SNCs), copies of inspection reports, and any follow-up reports, warning letters, NOV's, and administrative orders, etc.	Send to EPA upon issuance / specified time frame	Monitor State Action for timeliness and appropriate action.
4	All enforcement referrals from district offices to central office	Send copy to EPA	(Same as above)
5	Notice of Intent to receive hazardous waste from a foreign source pursuant to 40 CFR 265.12	Send copy to EPA upon receipt / within 5 days of receipt	Region review and take action as necessary
6	Notification of State that EPA will take enforcement action	Receive notification and take appropriate response, if required	Notification prior to issuing 3008(a) Order by telephone and /or writing within a specified time frame.

7	Notification of EPA of any determination that a CERCLA off-site facility is a SNC or may be posing significant threat to public health, welfare or the environment or otherwise affect the satisfactory operation of the facility.	State notifies EPA within 5 days of determination	EPA reviews per off-site rule, consults with State, and takes appropriate action.
8	For all TSDFs receiving CERCLA off site waste, Inspection Reports, NOVs, Orders, Civil and or Criminal actions and corrective action requirements when significant RCRA violations occur and a formal enforcement response is initiated.	State will send within 15 days of issuance	EPA reviews per off-site rule, consults with State, and takes appropriate action.
9	Draft and final delisting decisions, where State is authorized for delisting	Send draft to EPA 30 days before public notice. Send final decision to EPA 15 days before mailing to applicant	EPA review and provide comments to State within 30 days of receipt of draft decision. EPA notify State before State mails final decision to applicant if EPA finds serious technical deficiencies.
10	Citizen concerns referred to State by EPA	State investigate and report results to EPA w/in 30 days of referral from EPA	EPA refer to State.